

2015-CI-19622

166TH JUDICIAL DISTRICT COURT

THE STATE OF TEXAS VS LONE STAR INTRODU

DATE FILED: 11/24/2015

THE STATE OF TEXAS,
Plaintiff,

IN THE DISTRICT COURT

v.

LONE STAR INTRODUCTIONS, INC.
d/b/a ELOVE MATCHMAKING,
INTERNATIONAL DATING VENTURES,
INC., and
INTERNATIONAL INTRODUCTIONS,
INC.,
Defendants.

§
§
§
§
§
§
§
§
§
§

____ JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION AND APPLICATION FOR
TEMPORARY AND PERMANENT INJUNCTIONS**

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff, THE STATE OF TEXAS ("State"), acting by and through the Attorney General of Texas, Ken Paxton, and on behalf of the public interest, complains of LONE STAR INTRODUCTIONS, INC. d/b/a ELOVE MATCHMAKING, INTERNATIONAL DATING VENTURES, INC., and INTERNATIONAL INTRODUCTIONS, INC. ("Defendants"). The State alleges Defendants engaged in unlawful and deceptive acts and practices in violation of the Texas Deceptive Trade Practices Act ("DTPA"), Tex. Bus. & Com. Code § 17.41 *et seq.* The State also alleges that Defendants engaged in unlawful practices in violation of Chapters 106 and 302 of the Texas Business & Commerce Code (online dating service provider and telephone solicitation, respectively), and Chapter 392 of the Texas Finance Code (debt collection). In support thereof, the State respectfully shows the following:

I. DISCOVERY CONTROL PLAN

1. Discovery in this case is intended to be conducted under Level 2 pursuant to Tex. R. Civ. P. 190.3(a).
2. This case is not subject to the restrictions of expedited discovery under Tex. R. Civ. P. 169 because the relief sought by the State includes non-monetary injunctive relief.

DEPUTY

FILED
DONNA KAY MEKINNEY
DISTRICT CLERK
BEXAR COUNTY
NOV 24 PM 3:00

II. JURISDICTION

3. This action is brought by Texas Attorney General Ken Paxton, through his Consumer Protection Division, in the name of the State of Texas and public interest under the authority granted to him by section 17.47 of the DTPA, Tex. Bus. & Com. Code § 17.41 *et seq.*, upon the ground that Defendants engaged in false, deceptive, and misleading acts and practices in the course of trade and commerce as defined in, and declared unlawful by, sections 17.46(a) and (b) of the DTPA.

4. This action is further brought by Texas Attorney General Ken Paxton, through his Consumer Protection Division, in the name of the State of Texas and in the public interest under the authority granted to him by sections 302.101 and 302.303 of the Texas Business and Commerce Code upon the ground that Defendants used false, deceptive, and misleading representations to solicit business via telephone.

5. This action is further brought by Texas Attorney General Ken Paxton, through his Consumer Protection Division, in the name of the State of Texas and in the public interest under the authority granted to him under sections 392.301, 392.302, 392.403(d), and 392.404 of the Texas Finance Code for violations of the Texas Debt Collection Act.

6. This action is further brought by Texas Attorney General Ken Paxton, through his Consumer Protection Division, in the name of the State of Texas and in the public interest under the authority granted to him under sections 106.004 through 106.006 of the Texas Business and Commerce Code for violations of the Texas Internet Dating Safety Act.

III. DEFENDANTS

7. Defendant LONE STAR INTRODUCTIONS, INC. is a Massachusetts corporation that has conducted business in Texas as eLove Matchmaking (“eLove”). It can be served through its

registered agent, James J. McNulty, at 40 Court Street, Boston, MA 02108; at its principal place of business, 80 Washington Street, Building E 11-12, Norwell, MA 02061; or wherever it may be found.

8. Defendant INTERNATIONAL DATING VENTURES, INC. is a Massachusetts corporation that has conducted business in Texas. It can be served through its registered agent, James J. McNulty, at 40 Court Street, Boston, MA 02108; at its principal place of business, 80 Washington Street, Building E 11-12, Norwell, MA 02061; or wherever it may be found.

9. Defendant INTERNATIONAL INTRODUCTIONS, INC. is a Massachusetts corporation that has conducted business in Texas. It can be served through its registered agent, James J. McNulty, at 40 Court Street, Boston, MA 02108; at its principal place of business, 80 Washington Street, Building E 11-12, Norwell, MA 02061; or wherever it may be found.

IV. VENUE

10. Under the DTPA, § 17.47(b), venue is proper because one or more Defendants have done business in BEXAR County, Texas.

V. PUBLIC INTEREST

11. The State has reason to believe Defendants have caused and will cause adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this state and further, will cause damage to the State and to persons from whom monies or properties were unlawfully acquired by Defendants. Therefore, the Consumer Protection Division of the Office of the Attorney General of the State of Texas believes and is of the opinion that these proceedings are in the public interest.

VI. NOTICE BEFORE SUIT

12. The Consumer Protection Division informed Defendants in general of the alleged unlawful conduct described below, at least seven days before filing suit, as may be required by section 17.47(a) of the DTPA. On June 10, 2013, a Civil Investigative Demand and Statutory Directive pursuant to sections 17.60 and 17.61 of the DTPA were issued, advising Defendants of the alleged unlawful conduct. The examination under oath of a corporate representative was conducted on July 19, 2013 in accordance with section 17.60 of the DTPA.

VII. TRADE AND COMMERCE

13. Defendants have, at all times described below, engaged in conduct which constitutes “trade” and “commerce” as those terms are defined by section 17.45(6) of the DTPA.

VIII. ACTS OF AGENTS

14. Whenever in this Petition it is alleged that Defendants did any act, it is meant that:
- a. At least one Defendant performed or participated in the act; or
 - b. Defendants’ officers, agents, or employees performed or participated in the act on behalf of and under the authority of the Defendants.

IX. FACTUAL BACKGROUND

Defendants Cold Call Consumers and Use Coercive Tactics; not Registered Telemarketers

15. Defendants purport to provide dating services to consumers throughout the State of Texas under various names, including Together Dating, The Right One, Love Access, and Cupid’s Coach.

16. Defendants utilize “lead generation” companies which “mine” online dating service databases for customer contact information. Although not registered as telemarketers in the State of Texas, Defendants use this information to cold call prospective clients throughout Texas. The

purpose of these cold calls is to entice people into scheduling appointments at Defendants' offices and sign them up for dating services.

17. Defendants use high pressure and coercive tactics to convince consumers to sign expensive "membership agreements" for their services. Consumers are "harassed by incessant phone calls" and kept in a room at Defendants' business for hours to listen to high pressure sales tactics until they sign up for services. When consumers inform Defendants that they cannot afford their dating services, Defendants coerce and manipulate consumers into purchasing services by refusing to allow them to take copies of the contract home to review and telling them that "pricing [is] going to increase if [consumers do] not sign up for services at that moment." Defendants are also "very pushy" and persistent in obtaining financial information from potential clients so they can adjust membership fees according to consumers' ability to pay. Defendants charge consumers between \$7,995.00 and \$12,995.00 for prospective dating introductions.

Defendants Engage in False, Deceptive, and Misleading Acts and Practices

18. Defendants' employees engage in false, deceptive, and misleading acts and practices to persuade consumers to sign expensive contracts for Defendants' services. Examples include "counselors" [salespersons] representing to consumers that "unlimited status" or "unlimited holds" (ability to halt the referral of potential matches to a member for an unlimited period of time) are available as part of their membership and later claiming that no such service is available. Defendants also inform consumers that monthly payments will be due on a given date and later withdraw funds from consumers' bank accounts prior to that date without consumers' authorization.

19. "Counselors" falsely represent to consumers in "Preliminary Questionnaires" during the "screening process" that Defendants randomly monitor their employees. The "Preliminary

Questionnaire” states that “[i]n order to monitor compliance with interview standards and the accuracy of any representations made by [their] counselors in the interview with member’s consent, [Defendants] would like to randomly monitor the interviews.” Defendants then instruct consumers to indicate with their initials next to a “yes” and “no” field on the questionnaire whether they “consent to having [their] interview randomly monitored.” Defendants concede that “[they] do not monitor interviews even though it states on there [Preliminary Questionnaire]...eLove never has.”

20. During interviews, “counselors” also misrepresent that Defendants need sensitive financial information from consumers, including their financial status and credit card allowances, to better “match” them to prospective dates, when in reality the information is used to adjust the final price to consumers’ ability to pay.

21. Consumers complain of Defendants’ failure to disclose portions of the contract to them. In fact, consumers claim that is not until *after* their initial interview with “counselors” that consumers notice that portions of the contract were not disclosed to them at the time of the sale.

22. Consumers allege that Defendants fail to inform them when local offices are shut down. A San Antonio consumer only learned that her local office had closed when she drove by that location. After she filed a complaint with the Better Business Bureau (“BBB”), she was informed through Defendants’ response to the BBB that Defendants continued to operate in San Antonio; however, Defendants had permanently closed that office when they “moved” their customer service department to another state. The consumer, however, did not receive a notification from Defendants to this effect.

Defendants Harass and Threaten Consumers; Refuse to Honor Terms of Contract

23. Consumers who complained to Defendants and requested to cancel their contracts are harassed and threatened by Defendants with financial ruin and criminal prosecution. One consumer alleges that an eLove representative “yelled four letter curse words at [him], threatened to destroy [his] credit, prosecute [him] for a felony, and report [him] to the Texas Attorney General’s Office” when the consumer attempted to cancel his contract. The representative persisted in his attacks against the consumer and “insisted that he could send [the consumer] a referral without a background check.” Another consumer alleges that even though the terms of her contract provided for a three month hold option, an eLove representative refused to honor the consumer’s request to place the account on “hold.” The consumer subsequently attempted to cancel services because she was not receiving referrals. However, a representative responded that “under no circumstances would money be returned” and the consumer “could take it or leave it.”

Defendants Do Not Comply With Texas Internet Dating Safety Act Disclosures

24. Defendants are “online dating service providers.” They offer and provide Texas consumers access to dating and compatibility evaluations with other members through the Internet to facilitate social introductions and meetings. Defendants tell members that they conduct criminal background checks on all members. However, they do not clearly and conspicuously disclose to members on their Internet website, in bold capital letters in at least 12-point type, whether or not background checks are performed before members are permitted to communicate with each other through Defendants’ services as required by sections 106.004 (disclosure by provider that does not conduct criminal background check) and 106.005

(disclosure by provider that conducts criminal background checks) of the Texas Internet Dating Safety Act.

25. Defendants, as online dating providers that conduct criminal background checks, do not provide Texas consumers with other disclosures that are required by section 106.005 of the Texas Internet Dating Safety Act. For example, Defendants do not disclose on their Internet website whether they exclude individuals convicted of offenses from becoming members, the number of years in a member's criminal history included in background checks, and other statements that explain to consumers that criminal background checks are not foolproof.

26. Defendants also fail to comply with section 106.006 of the Texas Internet Dating Safety Act which requires Defendants to clearly and conspicuously provide consumers a safety awareness notification on Defendants' Internet website that includes a list and description of safety measures reasonably designed to increase awareness of safer online dating practices.

**X. VIOLATIONS OF THE TEXAS BUSINESS AND COMMERCE CODE
(DECEPTIVE TRADE PRACTICES ACT)**

27. The State incorporates and adopts by reference the allegations contained in each and every preceding paragraph of this petition.

28. Defendants, as alleged and detailed above, have in the conduct of trade and commerce, violated the DTPA by engaging in false, misleading, or deceptive acts or practices. Tex. Bus. & Com. Code § 17.46(a).

29. Defendants, as alleged and detailed above, have in the conduct of trade and commerce, violated the DTPA by causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services. Tex. Bus. & Com. Code § 17.46(b)(2).

30. Defendants, as alleged and detailed above, have in the conduct of trade and commerce, violated the DTPA by causing confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another. Tex. Bus. & Com. Code § 17.46(b)(3).
31. Defendants, as alleged and detailed above, have in the conduct of trade and commerce, violated the DTPA by representing that goods or services have sponsorship, approval, characteristics, uses, benefits, or quantities which they do not have. Tex. Bus. & Com. Code § 17.46(b)(5).
32. Defendants, as alleged and detailed above, have in the conduct of trade and commerce, violated the DTPA by representing that goods or services are of a particular standard, quality, or grade, if they are another. Tex. Bus. & Com. Code § 17.46(b)(7).
33. Defendants, as alleged and detailed above, have in the conduct of trade and commerce, violated the DTPA by advertising goods or services with intent not to sell them as advertised. Tex. Bus. & Com. Code § 17.46(b)(9).
34. Defendants, as alleged and detailed above, have in the conduct of trade and commerce, violated the DTPA by making false or misleading statements of fact concerning the reasons for, existence of, or amount of price reductions. Tex. Bus. & Com. Code § 17.46(b)(11).
35. Defendants, as alleged and detailed above, have in the conduct of trade and commerce, violated the DTPA by representing that an agreement confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law. Tex. Bus. & Com. Code § 17.46(b)(12).
36. Defendants, as alleged and detailed above, have in the conduct of trade and commerce, violated the DTPA by representing that a guarantee or warranty confers or involves rights or remedies which it does not have or involve. Tex. Bus. & Com. Code § 17.46(b)(20).

37. Defendants, as alleged and detailed above, have in the conduct of trade and commerce, violated the DTPA by failing to disclose information concerning goods or services which was known at the time of the transaction if such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed. Tex. Bus. & Com. Code § 17.46(b)(24).

38. Defendants, as alleged and detailed herein, also violated the DTPA by soliciting clients in violation of sections 302.101 and 302.303 of the Texas Business and Commerce Code, Regulation of Telephone Solicitation, and engaging in unlawful debt collection practices in violation of sections 392.301, 392.302, and 392.404 of the Texas Finance Code, Texas Debt Collection Act.

XI: VIOLATIONS OF THE TEXAS BUSINESS AND COMMERCE CODE
(TELEPHONE SOLICITATION REGULATION)

39. The State incorporates and adopts by reference the allegations contained in each and every preceding paragraph of this petition.

40. Defendants have and will continue to violate Tex. Bus. & Com. Code § 302.101 *et seq.* by making telephone solicitations while located in this State or to a purchaser located in this State without obtaining a registration certificate for the business location from which the telephone solicitations are made.

XII: VIOLATIONS OF THE TEXAS FINANCE CODE
(DEBT COLLECTION REGULATION)

41. The State incorporates and adopts by reference the allegations contained in each and every preceding paragraph of this petition.

42. Defendants have and will continue to violate sections 392.301 and 392.302 of the Texas Finance Code by harassing and threatening consumers in this State with financial ruin, litigation,

and other unlawful debt collection acts and practices. Furthermore, pursuant to section 392.404 of the Texas Finance Code, a violation of this section is a deceptive trade practice under Subchapter E, Chapter 17, Texas Business & Commerce Code, and is actionable under the DTPA.

**XIII: VIOLATIONS OF THE TEXAS BUSINESS AND COMMERCE CODE
(INTERNET DATING SAFETY ACT)**

43. The State incorporates and adopts by reference the allegations contained in each and every preceding paragraph of this petition.

44. Defendants have and will continue to violate sections 106.004 and 106.005 of the Texas Internet Dating Safety Act by failing to clearly and conspicuously disclose to members on their Internet website, in bold capital letters in at least 12-point type, whether background checks are performed before members are allowed to communicate through Defendants' services.

45. Defendants have and will continue to violate section 106.005 of the Texas Internet Dating Safety Act by failing to disclose to consumers on their Internet website the required information on criminal background checks and whether individuals convicted of certain criminal convictions or offenses are excluded from membership.

46. Defendants have and will continue to violate section 106.006 of the Texas Internet Dating Safety Act by offering services to consumer without clearly and conspicuously providing a safety awareness notification on their Internet website that includes a list and description of safety measures reasonably designed to increase awareness of safer online dating practices.

XIV. DISGORGEMENT/RESCISSION

47. Defendants' assets are subject to the equitable remedy of disgorgement, which is the court-ordered relinquishment of all benefits that would be unjust for Defendant to retain, including all ill-gotten gains and benefits or profits that result from Defendants' violations of

Texas law. Defendant should be ordered to disgorge all illegally obtained monies from consumers, together with all of the proceeds, profits, income, interest and accessions thereto. Such disgorgement should be for the benefit of victimized consumers and the State of Texas.

48. All dating service contracts obtained by Defendants in violation of the DTPA and Chapter 302 of the Texas Business and Commerce Code or otherwise obtained from Texas consumers in violation of Texas law by Defendants should be rescinded by order of this Court; all ill-gotten gains, benefits or profits that Defendants have obtained from such contracts should be returned to the State of Texas and consumers; all debt collection efforts of any kind by Defendants with respect to these dating service contracts ceased, including any negative credit reporting; and all negative credit reports Defendants made to any credit reporting agencies should be ordered to be retracted by Defendants.

XV. TRIAL BY JURY

49. Plaintiff herein requests a jury trial and tenders the jury fee to the Bexar County District Clerk's office pursuant to Tex. R. Civ. P. 216 and Tex. Gov't Code § 51.604.

XVI. REQUESTS FOR DISCLOSURE

50. Pursuant to Texas Rule of Civil Procedure 194, the State requests that Defendants disclose, within 50 days of this petition, the information or material described in Rule 194.2.

XVII. PRAYER

51. Because Defendants have engaged, will continue to engage, or are about to engage in the unlawful acts and practices described above, the State believes that proceedings against the Defendants are in the public interest. Unless restrained and enjoined by this Honorable Court, Defendants will continue to violate the laws of the State of Texas and cause harm to the State of Texas and to the general public.

52. Plaintiff prays that Defendants be cited according to law to appear and answer herein; that pursuant to DTPA § 17.47, after notice and hearing, a TEMPORARY INJUNCTION be issued; and upon final hearing a PERMANENT INJUNCTION be issued, restraining and enjoining Defendants (including any business entities established by Defendants), its officers, agents, servants, employees, and any other person in active concert or participation with Defendants, from engaging in the following acts or practices:

- a. Transferring, concealing, destroying, or removing from the jurisdiction of this Court any books, records, documents, or other written or computer generated materials relating to the business of Defendants currently or hereafter in Defendants' possession, custody or control except in response to further orders or subpoenas in this cause;
- b. Transferring, withdrawing, liquidating, spending, concealing, encumbering, removing, dissipating, distributing, assigning, granting a lien or security interest in, or otherwise disposing of any funds, real or personal property, accounts, contracts, shares of stock, or other assets, or any interest therein, wherever located, that are:
 - i) owned, controlled, or held by, in whole or in part, for the benefit of, or subject to access by, or belonging to any of the Defendants, including but not limited to, any accounts to which any Defendant has signatory authority and any accounts in which Defendants own any interest granted by their affiliates;
 - ii) in the actual or constructive possession of any Defendant; or

- iii) in the actual or constructive possession of, or owned, controlled, or held by, or subject to access by, or belonging to, any other corporation, partnership, trust, or any other entity directly or indirectly owned, managed, or controlled by, or under common control of, any Defendant;
- c. Allowing the transfer or withdrawal of funds or other assets that are:
 - i) owned, controlled, or held by, in whole or in part, for the benefit of, or subject to access by, or belonging to any Defendant, including but not limited to, any accounts to which any Defendant has signatory authority and any accounts in which Defendants own any interest granted by a Defendant or their affiliates;
 - ii) in the actual or constructive possession of any Defendant; or
 - iii) in the actual or constructive possession of, or owned, controlled, or held by, or subject to access by, or belonging to, any other corporation, partnership, trust, or any other entity directly or indirectly owned, managed, or controlled by, or under common control of, any Defendant;
- d. Opening or causing to be opened any safe deposit boxes, commercial mail boxes, or storage facilities titled in the name of Defendants or subject to access, ownership or control by Defendants, without providing Plaintiff and the Court prior notice by motion seeking such access;
- e. Advertising via print, billboard, the Internet, social media, or through any other means any services related to providing dating services or social introductions to consumers without further order of this Court;

- f. Offering for sale, or otherwise soliciting consumers to purchase membership agreements for services related to social introductions until further order of the Court;
- g. Soliciting consumers through telephone calls, emails, social media, the Internet, or other means to offer Defendants' services until further order of this Court;
- h. Failing to honor any requests by consumers (before and after this Court's order) to cancel their membership agreements with Defendants without further obligation and failing to cease any and all collection efforts, including but not limited to debiting consumer bank accounts and submitting negative credit reporting to any credit reporting agencies with respect to any consumers who are in default of their membership agreements, until further order of this Court; and
- i. Harassing, threatening, coercing, or attempting to coerce consumers with financial ruin, litigation, and other unlawful debt collection acts and practices prohibited by sections 392.301, 392.302, and 392.404 of the Texas Finance Code.

53. Plaintiff prays that Defendants be ordered to notify all agents and assignees to cease debiting or collecting monies from former and current clients' banking or checking accounts and to cease any and all collection efforts and credit reporting until further order of this Court.

54. Plaintiff prays that Defendants be ordered to produce the contact information for all consumers Defendants solicited for dating services.

55. Plaintiff further prays that this Court will:

- a. Order Defendants to pay civil penalties not to exceed \$20,000.00 per violation to the State of Texas for each violation of the DTPA;

- b. Order Defendants to pay civil penalties in an amount up to \$250,000.00 as allowed by law under the DTPA, for acts or practices that were calculated to acquire or deprive money or other property from consumers who were 65 years of age or older when the act or practice occurred;
- c. Order Defendants to pay civil penalties not to exceed \$250.00 for each Texas member registered with their online dating service during the time of the violation to the State of Texas for each violation of the Internet Dating Safety Act;
- d. Order the disgorgement of Defendants' assets, as provided by law, and rescission of dating service membership agreements illegally obtained;
- e. Order Defendants' to restore all money or other property taken from identifiable persons by means of unlawful acts or practices;
- f. Order Defendants to pay pre-judgment and post-judgment interest on all awards of restitution, or civil penalties, as provided by law; and
- g. Order Defendants to pay all costs of Court, costs of investigation, and reasonable attorney's fees pursuant to Tex. Govt. Code § 402.006(c) and Tex. Bus. & Com. Code § 521.151(f).

56. Plaintiff further prays for such other relief to which Plaintiff THE STATE OF TEXAS may be justly entitled.

Respectfully submitted,

KEN PAXTON
Attorney General of Texas

CHARLES E. ROY
First Assistant Attorney General

JAMES E. DAVIS
Deputy Attorney General for Civil Litigation

TOMMY PRUD'HOMME
Chief, Consumer Protection Division



VALERIA SARTORIO

SBN 24073758

valeria.sartorio@texasattorneygeneral.gov

JAMES E. CUSTER

SBN 24004605

Assistant Attorneys General

Consumer Protection Division

115 E. Travis, Suite 925

San Antonio, Texas 78205

Telephone (210) 225-4191

Fax (210) 225-1075

ATTORNEYS FOR PLAINTIFF